





IN SENATE OF THE UNITED STATES.

APRIL 13, 1846.

Mr. BREESE made the following

REPORT:

[To accompany bill S. No. 154.]

The Committee on Public Lands, to whom was referred the memorial of the Galena and Chicago Union Railroad Company, have had the same under consideration, and respectfully ask leave to report:

The memorial sets forth that in 1836 the legislature of the State of Illinois incorporated a company styled the Galena and Chicago Union Railroad Company, with authority to lay out and construct a railroad from the town of Galena, near the Mississippi river, the heart of the great lead-mine region, to the town of Chicago, at the head of lake Michigan.

The petition proceeds to set forth the importance of this road as it regards the citizens of the State of Illinois and the United States, and the advantages that will result from its construction to the agricultural, mining, and commercial interests, and prefers the request that Congress will grant to them the right of way through the public lands, and a pre-emption to a quantity thereof equal to five sections of land lying within ten miles of the route of the road, for every mile of said road.

To determine the propriety of this request, the committee have made all the inquiry in their power as to the facts stated in the memorial, and find that a charter has been granted as stated, which is here appended; and that the counties and towns most immediately interested in its construction have manifested a becoming zeal and earnestness in originating measures tending to its completion, and take a lively interest in its success, though the committee are not informed that any funds have, as yet, been appropriated towards it, except about thirty thousand dollars in preliminary arrangements and explorations of the route.

From the proceedings of a very respectable convention, held at Rockford, one of the principal towns on the route, whose memorial, on the same subject, is now before the committee, the committee are induced to believe that the prospects of its completion are very flattering, and, with the aid asked of Congress, they have strong assurances that it will be constructed. The route of the road is, for the most part, over undulating prairie, requiring no expensive grading, or other works which tend so greatly to increase the cost. The soil is very fertile, and owned almost wholly by the United States, and is represented to be, in addition to its mineral wealth, one of the best wheat-growing countries in the world. It is only within a very few years that the resources of northern Illinois have

commenced a development. That portion of it most directly interested in this road has increased in population in the last ten years on a basis of fifteen thousand, then the total amount in 1836, to one hundred thousand, or near seven hundred per cent., and is progressing in the same astonishing ratio. In the eleven counties in which these remarkable results are exhibited, the production of wheat had increased in the last five years from five hundred thousand to two millions seven hundred thousand bushels, of which two millions were exported at a cost of twenty-five cents per bushel, the transportation to the point of export being in wagons, and distant one hundred miles. During the last season more than fifty-five millions of pounds of lead were shipped from Galena, the western terminus of the proposed road, (a city of five thousand inhabitants, and the great lead depot of the west,) by the Mississippi, for the eastern markets, the most of which, it is believed, would find a cheaper and more expeditious channel, by this road and the lakes, to the great markets of the Atlantic seaboard; for whilst, by New Orleans to New York, the freight per one hundred pounds is seventy-one cents, by the road and the lakes it would be but fifty-six cents; and whilst the time consumed by the former route is ninety days, by the road and lakes it would be but twenty-five days; and the insurance less, the dangers being less.

Chicago, the eastern and lake terminus, is now a city of fifteen thousand inhabitants, grown up to this vast size since 1830, and commands, by its enviable position for the exchange of agricultural for manufactured products, a vast extent of territory. The time cannot be distant when the extent and high improvement of the country southwest, west, and northwest of it, for which this point will be the mart for commercial operations, will place it second to no city in the lake region. Its imports are now near two millions annually, and its exports one and a quarter million, and greatly increasing.

The committee have thought it was necessary merely to glance at these topics, and present them to the Senate as furnishing some evidence of a reasonable probability that the road will be constructed to accommodate a trade now so great, and giving every promise of a rapid increase. In connexion with the roads now in progress of completion across the peninsula of Michigan, a speedy, safe, and cheap route will be had from our Atlantic cities to the Mississippi river, and at a point now, and ever to be, the centre of the great lead trade, and passing through a region which, for salubrity of climate, beauty of landscape, and agricultural resources, may challenge the world.

The committee do not remark upon the advantages which would be derived at all times for the safe and speedy transportation of the mail, and in time of war in the movement of troops and munitions of war, they being so obvious as to arrest the attention of every one by the construction of a road from the great lakes to the Mississippi, and in time to be extended to rich and fertile regions beyond it.

Though these are weighty considerations, yet there are others which have engaged the attention of the committee, and in which the pecuniary interests of the United States are concerned.

The route of this road being for the most part over prairie lands, and far removed from any cheap and certain means of conveyance, they are now unsaleable, and may continue so for many years, dispensing no benefits, either to the United States or to the State, through the taxing power.

This road guarantees an extensive sale of them; for the same motive which influences the company to obtain a pre-emption right, will induce others to purchase the remaining lands, near the route, so soon as they have an assurance that the road will be completed in a reasonable time. The amount of vacant lands within ten miles of the route of this road, the committee estimate at near two millions of acres, and they will remain so unless made available for settlement by this improvement. The United States have, therefore, a direct pecuniary interest in its execution.

The memorial does not ask for any donation of land, in aid of the enterprise, as a consideration for the benefits which may accrue from the road to the people at large, to the State of Illinois, or to the United States. All they ask is a pre-emption right to a portion of the public lands which are to be enhanced in value by this improvement. They ask for the privilege of making them valuable, and then paying the government the minimum price for them.

In conceding this, the United States give nothing. All the vacant lands proposed to be embraced in the privilege have been in market many years at the price the company propose to give for them, and if the road be not completed, will, together with the remaining tracts now vacant, remain unsaleable for an indefinite period of time. But whether sold at a near or distant period, before the road is completed, or afterwards, all the United States can receive for them will be not over one dollar and twenty-five cents per acre, the minimum government price. And if part of the enhanced value of the lands can be made available in anticipation of the construction of the road, it is certainly, in the opinion of the committee, more just that it should go into the hands of those who encounter all the responsibilities attached to so great and useful an undertaking, than to those who may buy at government price, and see their lands increased in value fourfold by an enterprise to which they contribute nothing. If any tax be just for the construction of internal improvements, it is one which falls exclusively upon the lands and other real property whose value it enhances. A right of way through the public lands is also asked for by the memorialists. As the construction of the railroad cannot reduce, but will very certainly increase the value of the lands through which it passes, it cannot be doubted that they will sell, subject to this easement, at the government price. The grant of that right, therefore, will be but securing to the company a portion of the increased value given by them to such tracts, not by pre-emption, but by a process leading partially to the same result.

In accordance with these views the committee report a bill.

AN ACT to incorporate the Galena and Chicago Union Railroad Company, approved January 16, 1836.

Theo's W. Smith, president; Edmund D. Taylor, Josiah C. Goodhue, John T. Temple, George Smith, Ebenezer Peck, James H. Collins, directors.

Sec. 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly, That all such persons as shall become stockholders, agreeably to the provisions of this act, in the corporation hereby created,

shall be, and for the term of sixty years from and after the passage of this act shall continue to be, a body corporate and politic, by the name of the "Galena and Chicago Union Railroad Company," and by that name shall have succession for the term of years above specified; may sue and be sued, complain and defend, in any court of law or equity; may make and use a common seal, and alter the same at pleasure; may make by-laws, rules, and regulations for the management of property, the regulation of its affairs, and for the transfer of its stock, not inconsistent with the existing laws and the constitution of this State and of the United States; and may moreover appoint such subordinate agents, officers, and servants, as the business of the said corporation may require, and allow to them a suitable compensation, prescribe their duties, and require bond for the faithful performance thereof, in such penal sums and with such sureties as they may choose, who shall hold their offices during the pleasure of a majority of the directors of the said corporation.

SEC. 2. The said corporation shall have the right to construct, and during its continuance to maintain and continue, a railroad with a single or double track, and with such appendages as may be deemed necessary for the convenient use of the same, from the town of Galena, in the county of Jo Daviess, to such point at the town of Chicago as shall be determined, after a survey shall have been made of the route, to be the most eligible, proper, direct, and convenient therefor.

SEC. 3. The capital stock of the said corporation shall be one hundred thousand dollars, which shall be deemed personal property, and shall be divided into shares of one hundred dollars each. The capital stock of said corporation may at any time hereafter be increased to a sum not exceeding one million of dollars, if the same shall be judged necessary to the completion of the said work, and the same shall be subscribed for and taken under the direction of the directors of the said corporation, wherever they shall direct one or more books to be opened for such purpose, and shall be subscribed and taken in such manner as the directors of the said corporation for that purpose shall order and appoint.

SEC. 4. That William Bennett, Thomas Drummond, J. C. Goodhue, Peter Scimble, J. W. Turner, E. D. Taylor, and J. B. Thomas, jr., shall be commissioners for securing subscriptions to the capital stock of said corporation, who shall give notice, within twelve months after the passage of this act, of the time and place where books will be opened at Galena and Chicago, and such other places as they may deem necessary, in some public newspaper printed at the said places, at least thirty days previous to the opening of such books for the receiving subscriptions to the capital stock of said corporation.

The majority of the commissioners shall attend at the place appointed by such notice for the opening of said books, and shall continue to receive such subscriptions to the capital stock of said corporation, from all persons who will subscribe thereto, until the whole amount thereof shall have been subscribed, when the said books shall be closed. Each subscriber, at the time of subscribing, shall pay to the commissioners one dollar on each share of the stock subscribed for by him, and the said commissioners shall, as soon as the directors are elected, deliver to them the whole amount so received.

SEC. 5. The affairs of said corporation shall be managed by a board of seven directors, to be annually chosen by the stockholders from among

themselves, as soon as may be after the stock has been subscribed. The commissioners shall give notice of the time and place at which a meeting of the stockholders will be held for the choice of directors. And at such time and place appointed for that purpose, the commissioners, or a majority of them, shall attend and act as inspectors of said election, and the stockholders present shall proceed to elect their directors by ballot, and the commissioners present shall certify the result of such election under their hands; which certificate shall be recorded in the books of the corporation, and shall be sufficient evidence of the election of the directors therein named.

All future elections shall be held at the time and in the manner prescribed by the by-laws and regulations of the said corporation. Each stockholder shall be allowed as many votes as he owns shares at the commencement of such election, and a plurality of votes shall determine the choice; but no stockholder shall be allowed to vote at any election after the first, for any stock which shall have been assigned to him within thirty days previous to holding such election.

The said directors shall hold their offices for one year after their election, and shall elect one of their number as president of the said board.

SEC. 6. The said corporation is authorized to construct, make, and use, a single or double railroad or way, of suitable width and dimensions, to be determined by the said corporation, on the line, course, or way which may be designated and selected by the directors as the line, course, or way whereon to construct and make the same; and shall have power to regulate the time and manner in which goods, effects, and passengers shall be transported, taken, and carried on the same, and to prescribe the manner in which the said railroad shall be used, by what force the carriages to be used thereon may be propelled, and the rate of toll for transportation of persons or property thereon; and shall have power to erect and maintain houses, toll-gates, and other buildings, for the accommodation and management of the said road, and transperte thereon as may be deemed suitable to their interest. And they may also construct, maintain, and use such other lateral routes as may be deemed advantageous and expedient and necessary, under the same rights and privileges as by this act is provided for the constructing of the main route. And it shall be lawful, also, for the said corporation to unite with any other railroad company already incorporated, or which may be incorporated upon any part of the route of said road, upon such terms as may be agreed upon by the directors of said companies; and also to construct such other and lateral routes as may be necessary to connect them with any other route or routes which may be deemed expedient.

SEC. 7. If, at any time after the passage of this act, it shall be deemed advisable by the directors of the said corporation to make and construct a good and permanent turnpike road upon any portion of the route of the railroad by this act authorized to be constructed, then the said directors are hereby authorized and empowered to construct a turnpike, or any portion of the said route, of the following dimensions: not less than one hundred feet wide, twenty-two feet of which shall be based with stone, or gravel, or other hard substance, well compacted together, and of sufficient depth to secure a good foundation where necessary, the whole of which shall be faced with gravel or stone, of a depth not less than six inches, in such manner as to secure a firm and even surface, rising in the middle by a

gradual arch; and where other roads may intersect, it shall be so constructed that carriages may conveniently pass over the turnpike road. And the said corporation is hereby authorized to erect, at both ends of said road, and at such other points upon the line thereof, as many gates as shall be deemed necessary thereon.

SEC. 8. It shall be lawful for said corporation to appoint toll-gatherers to collect and receive of and from all persons using said road, the following rates of toll, to wit: For each and every mile of transport or travel upon the said turnpike road, for a man and horse, two cents; or for a single person, one cent. For four or six horses or ox wagon and driver, loaded, three cents; and for the same, when empty, two cents. For all four-horse carriages and driver, five cents. For a two-horse wagon, or one yoke of oxen and wagon, three cents. For two-horse pleasure carriages, four cents. For a one-horse carriage or gig, two cents. For horses, mules, or cattle in droves, half a cent per head. For hogs, goats, and sheep, one mill per head. When sleds are used instead of wheels, one-half of the above specified toll. And it shall be lawful for any toll-gatherer to stop and detain any person from going on said road until he shall pay to him the toll properly chargeable to him; and when any person shall pay to the toll-gatherer the toll chargeable to him, the toll-gatherer shall give him a ticket authorizing him to pass the whole distance of the road for which he has paid. And the president and directors shall cause to be kept upon each gate, in some conspicuous place where it may be easily read, a printed list of the tolls which may be lawfully demanded. Said corporation shall cause to be erected mile posts or stones, to be maintained, and also erect guide-posts at the intersection of all highways leading into or from such turnpike road, on which shall be inscribed the name of the town or public place to which it leads; and if any person shall wilfully cut down such posts, or shall wilfully break or throw down any of the said gates or turnpike, or shall dig or spoil any of the said road, or anything thereunto belonging, or shall forcibly pass either of the gates without first having paid the legal tolls, such person shall pay and forfeit for every such offence and injury the sum of twenty-five dollars, to be recovered by the said corporation in an action of debt, before any justice of the peace of the county where the offender or offenders may be found; and if any person shall turn out of the said road and pass any of the gates, and again enter upon such road to avoid the payment of toll, he shall forfeit to the corporation the sum of five dollars, to be recovered in like manner.

SEC. 9. If any toll-gatherer shall unreasonably delay or hinder any traveller or passenger, or shall demand more toll than by this act is allowed, he shall forfeit and pay to the person injured the sum of five dollars in the manner provided in the preceding section; and if he shall be unable to pay it, the corporation shall be held responsible therefor.

SEC. 10. As soon as five miles of the (any) turnpike road shall be completed, said corporation may erect gates thereon, and collect the toll allowed by this act. And it shall be the duty of the said corporation, when said road shall have been completed, to keep it in good repair; and whenever, from any cause whatever, the same shall become injured, the said corporation shall immediately proceed to repair the same. And it shall be lawful for the said corporation to commence the construction of the said railroad, or way, or turnpike, at such points on any part of the aforesaid route or routes hereinbefore described, as in its judgment may appear expedient

and proper. Said corporation are authorized to borrow any sum of money which may in their discretion be deemed necessary, not exceeding its capital stock, to aid in the construction of the said road; and if it shall at any time appear to the said corporation that any part thereof, or any surplus funds, are not necessary to be retained, the same may be loaned on such terms as the directors of the said corporation may deem proper; not, however, at a higher rate of interest than that now allowed by the laws of this State.

SEC. 11. In case the corporation shall not be able to acquire the title to the lands through which the said road shall be laid, by purchase or voluntary cession, it shall be lawful for the said corporation to appropriate so much of said lands as may be necessary for its own use, for the purposes contemplated by this act, on complying with the provisions of the six following sections.

SEC. 12. The directors may present a petition to the judge of the circuit court of the county in which the said land may be situate, setting forth by some proper description the lands which are wanted for the construction of said railroad, or turnpike, or the appendages thereto, and the names of the owners thereof, if known; distinguishing with convenient certainty, if it can be done, the parcels claimed in severalty by the respective owners, and praying for the appointment of appraisers to assess the damages which the owners of said land will severally sustain by reason of the appropriation thereof by the said corporation to its own use.

SEC. 13. On the presentment of such petition, said circuit judge shall appoint a day for the hearing of the parties in interest, and shall direct such notice as he shall deem reasonable, to be given of the time and place of hearing; and in case it shall appear that any of the owners of said lands is a *femme covert*, an infant or insane, or otherwise incompetent to take proper care of his or her interest, it shall be the duty of the said judge to appoint some discreet and reputable person to act in the premises, in his or her behalf.

SEC. 14. At the time appointed for such hearing, the said judge shall appoint three disinterested persons, freeholders, residents of the county in which said lands may lie, for the purpose of assessing such damages, and, in the order in which they were appointed, shall direct and specify what lands are proposed to be appropriated and occupied by the said corporation for the purpose aforesaid.

SEC. 15. Said appraisers, after being duly sworn before some officer properly authorized to administer oaths, honestly and impartially to assess such damages, shall proceed, by viewing said lands, and by such other evidence as the parties may produce before them, to ascertain and assess the damages which each individual owner will sustain by the appropriation of his lands for the use or accommodation of such railroad or turnpike, or their appendages.

SEC. 16. The said appraisers shall make a report to the said judge, in writing, under their hands, reciting the order for their appointment, and specifying the several parcels described therein with all necessary certainty, the names of the owners of the respective parcels, if known, and if not known stating the fact, and specifying also the damages which the owners of the said respective parcels will sustain by reason of the appropriation of the same for the purposes aforesaid; and in case either of the parties are

dissatisfied with the assessment, the said judge may, on the hearing of the parties in interest, modify the assessment as to him shall appear just.

SEC. 17. On the payment of the damages thus assessed, together with the expenses of assessment, as the same shall be settled by said judge, or on depositing the amount thereof for the use of such owners, in such bank or moneyed incorporation as the said judge shall direct, the said corporation shall immediately become entitled to the use of said lands for the purposes aforesaid; and the report of the said appraisers, with the order of said judge, modifying the same, if the same shall have been modified, shall be recorded in the office of the recorder of the county in which said lands shall be situate, in the same manner and the like effect as deeds are recorded, without any other proof than the certificate of the said judge that the report is genuine.

SEC. 18. And when the said order shall have been so recorded as aforesaid, the said corporation shall be seized and possessed of such land or real estate, and may enter upon and take possession, and use the same for the purposes hereinbefore recited.

SEC. 19. Said corporation shall be bound to repair all public highways, bridges, and watercourses, which may be injured in constructing said railroad or its appendages; and shall restore them, as far as practicable, to as good a condition as they were before they were injured.

SEC. 20. The said corporation shall be allowed three years from the passage of this act for the commencement of the construction of the said railroad and turnpike; and in case the same shall not be completed within ten years thereafter, the privileges herein granted shall be forfeited.

SEC. 21. Any person who shall wilfully injure said road, or any of the appendages thereto, shall be deemed guilty of a misdemeanor, and shall forfeit to the use of the corporation a sum equal to three times the amount of damages occasioned by such injury; to be recovered, with costs of suit, in the name of such corporation, in an action of debt, before any court having cognizance thereof, or before any justice of the peace in the county where such injury or offence may have been committed.

SEC. 22. This act shall be deemed and taken as a public act, and shall be construed beneficially for all purposes herein specified or intended; and all copies thereof, printed by or under the direction of the General Assembly of this State, shall be received in all courts and places whatsoever in said State, as sufficient evidence thereof, without further proof.

JAMES TEMPLE,
Speaker of the House of Representatives.
A. M. JENKINS,
Speaker of the Senate.

Approved, 16th January, 1836.

JOSEPH DUNCAN.

STATE OF ILLINOIS, Department of State:

I, Alexander P. Field, secretary of state of the State of Illinois, do certify the foregoing to be a true copy of the enrolled bill on file in this department.

In testimony whereof, I have hereunto signed my name, and affixed
[L. s.] the State seal, at Vandalia, the 29th January, 1836.

A. P. FIELD,
Secretary of State.

AN ACT to amend an act to incorporate the Galena and Chicago Union Railroad Company, approved January 16, 1836.

SEC. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly,* That the capital stock of the Galena and Chicago Union Railroad Company be, and the same is hereby authorized to be, increased to a sum not exceeding one million of dollars, in addition to its present capital, with the assent of the stockholders of the said company, to enable them to complete the construction of the road authorized by the charter of said company.

SEC. 2. The said additional capital stock shall be taken under and according to the provisions of the third section of the original act of incorporation; and the time for the final completion of said road is extended five years: and the said company having applied to the United States for a right of way over the public lands, may receive, take, and hold all such lands as may be ceded or granted to said company by the United States, or by individuals, for the purpose of enabling them to construct said road, or to erect thereon depots, toll-houses, and for such other purposes and uses as may be deemed necessary and useful to said company; and they may dispose of any fractional or surplus portion thereof, if any there should be, whenever it shall appear that so much thereof is not absolutely necessary to be retained whereon to construct said road; and erect such depots, toll-houses, and other appendages, to raise additional means wherewith to enable said company to construct said road in the best possible manner.

SEC. 3. Should it appear impracticable for the said company to construct the said road the whole distance contemplated by said act, or that it would be more advantageous to the company, or the public interest, that the said road should be connected with the State Central railroad, then the said company are authorized to terminate the said road at such point as shall be deemed most practicable, and may intersect and connect the said road with the said Central railroad in its course to Galena: *Provided*, Nothing contained within the provisions of this act shall authorize the said company to have, purchase, receive, or hold any land upon any line of any railroad authorized to be constructed by the State, nor to construct any railroad upon or near the same line, or any railroad authorized to be constructed by the State.

NEWTON CLOUD,
Speaker of the House of Representatives, pro tem.
W. H. DAVIDSON,
Speaker of the Senate.

Approved, 4th March, 1837.

JOSEPH DUNCAN.



